

Amendment No. 1 to SB1017

Johnson
Signature of Sponsor

AMEND Senate Bill No. 1017*

House Bill No. 1085

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 48-101-513, is amended by adding the following language as a new subsection:

(m)

(1) Any charitable organization that places or maintains a collection receptacle in public view for the purpose of collecting donated clothing, household items, or similar goods shall clearly and conspicuously display on two (2) sides, including the front, of each collection receptacle a permanent sign or label with the charitable organization's name, address, phone number, electronic mail address, and a statement expressing the charitable purpose for which the charitable organization exists.

(2) Any person who is not a charitable organization and who places or maintains a collection receptacle in public view for the purpose of collecting donated clothing, household items, or similar goods, for resale for the purpose of retaining the proceeds of the sale of the items, shall clearly and conspicuously display on two (2) sides, including the front, of each collection receptacle a permanent sign or label with the person's name, address, phone number, electronic mail address, and the following statement:

THIS IS NOT A CHARITY. DONATIONS MADE HERE WILL BE SOLD
BY A FOR-PROFIT BUSINESS AND ARE NOT TAX-DEDUCTIBLE.

(3)

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(A) Any person who is not a charitable organization and who places or maintains a collection receptacle in public view for the purpose of collecting donated clothing, household items, or similar goods, for resale for the purpose of paying over all or a portion of the proceeds from the sales to a charitable organization, shall display on two (2) sides, including the front, of each collection receptacle a permanent sign or label with the following statement:

DONATIONS MADE HERE WILL BE SOLD BY A FOR-PROFIT BUSINESS, AND A PORTION OF THE PROCEEDS WILL BE PAID TO [NAME OF CHARITABLE ORGANIZATION]. FURTHER INFORMATION ABOUT THESE PAYMENTS CAN BE OBTAINED FROM [NAME OF PERSON OPERATING COLLECTION RECEPTACLE] AT [PHONE NUMBER AND ELECTRONIC MAIL ADDRESS] AND FROM [NAME OF CHARITABLE ORGANIZATION] AT [PHONE NUMBER AND ELECTRONIC MAIL ADDRESS].

(B) The provisions of § 48-101-507 regarding professional solicitors shall apply to any person who places or maintains a collection receptacle pursuant to this subdivision (m)(3).

(C) Any person who places or maintains a collection receptacle pursuant to this subdivision (m)(3) is not required to comply with the recordkeeping requirements of subdivision (i)(2).

(4) The sign or labels required by this subsection (m) shall be placed on two (2) sides of the collection receptacle, including the front, with the required information printed in letters that are at least two inches (2") in height or as large as the largest letter on the box, whichever is greater, and in a color that contrasts with the color of the collection receptacle so that the sign or label is clearly visible.

(5)

(A) Prior to placing any collection receptacle that is subject to this subsection (m), the person placing the collection receptacle shall obtain notarized written permission to place and operate the collection receptacle from the owner or all leaseholders of the property where the collection receptacle is to be located. Copies of the notarized written permission shall be maintained by the person placing the collection receptacle and provided to the owner or any leaseholder of the property at any time upon request. If the notarized written permission to place and operate the collection receptacle is obtained from the property owner, the person placing the collection receptacle shall notify all leaseholders, tenants, or other occupants of the property owner's consent to the placement of the collection receptacle on the property.

(B) The notarized written permission required by this subdivision (m)(5) shall include the signature of the person placing the collection receptacle, or that person's authorized agent, and of the owner or all

leaseholders of the property who have the authority to permit or allow structures, such as collection receptacles, to be placed on the property.

(6) The person placing the collection receptacle shall maintain the collection receptacle in a structurally sound, clean, and sanitary condition, and regularly empty the collection receptacle at least every two (2) weeks. The person placing the collection receptacle shall also be responsible for ensuring that no donations are present on the ground area surrounding the collection receptacle for a time period exceeding twenty-four (24) hours.

(7)

(A) The owner or any one (1) leaseholder of the property may request removal of a collection receptacle by submitting a written request and sending it to the address listed on the collection receptacle pursuant to § 48-101-513(m)(1), (2), or (3), as applicable. The owner or leaseholder of the property shall also send a copy of the written request to the office of the secretary of state.

(B) The person placing the collection receptacle shall remove the collection receptacle as well as any contents left in and around the collection receptacle within thirty (30) days of receiving written notification of removal from the owner or any one (1) leaseholder of the property.

(C) If the person placing the collection receptacle fails to remove the collection receptacle following the expiration of the thirty-day period, the owner or any one (1) leaseholder of the property shall have the right, without providing any additional notice to the person who placed the collection receptacle on the property, to take possession of, remove, and dispose of the collection receptacle and the contents thereof without incurring any civil or criminal liability for such actions. Any charges

incurred in the removal and disposal of the collection receptacle by the owner or leaseholder of the property shall be invoiced to, and paid by, the person who placed the collection receptacle on the property.

(D) Notwithstanding subdivisions (m)(7)(A)–(C), the owner or any one (1) leaseholder of the property may request immediate removal of a collection receptacle if the person who placed the collection receptacle on the property never received notarized written permission pursuant to subdivision (m)(5).

(8)

(A) Any violation of subdivisions (m)(1)–(5) constitutes a solicitation of contributions by unfair, false, misleading, or deceptive means or manner, and may be investigated under § 48-101-514.

(B) The secretary of state may impose a civil penalty of not more than five thousand dollars (\$5,000) for any violation of this subsection (m).

(C) Any person who is sanctioned by the secretary of state for a violation of this subsection (m) may seek review of the secretary of state's decision by requesting a contested case hearing, which shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(D) Civil penalties imposed under this subsection (m) shall be enforced in the manner prescribed by § 48-101-514.

(9)

(A) Any owner or leaseholder of the property who suffers loss of money for removing or disposing of any collection receptacle or its contents following the expiration of the thirty-day period referred to in

subdivision (m)(7)(B), or for any violation of subdivision (m)(6), may bring an action individually to recover actual damages.

(B) The action may be brought in a court of competent jurisdiction in the county where the collection receptacle was removed, in the county in which the person who placed the collection receptacle conducts, transacts, or has transacted business, or, if the person who placed the collection receptacle cannot be found in any of the foregoing locations, in the county in which the person who placed the collection receptacle can be found.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to conduct occurring on or after that date.